



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DEAN SHEIKH, et al.,

Plaintiffs,

vs.

TESLA, INC. d/b/a TESLA MOTORS,
INC.,

Defendant.

Case No. 5:17-cv-02193-BLF

CLASS ACTION

**SUPPLEMENTAL DECLARATION OF
LANA LUCCHESI RE: POST-
DISTRIBUTION ACCOUNTING OF
SETTLEMENT FUNDS**

1 I, LANA LUCCHESI, declare and state as follows:

2 1. I am a Director with KCC Class Action Services (“KCC”), located in San Rafael,
3 California. Pursuant to the Preliminary Approval Order dated June 8, 2018, the Court appointed
4 KCC as the Claims Administrator in connection with the proposed Settlement of the above-
5 captioned Action.¹ I have personal knowledge of the matters stated herein and, if called upon,
6 could and would testify thereto.

7 2. This declaration supplements my previous declaration for the purpose of updating
8 the parties and the Court with distribution activity.

9 CLASS LIST

10 3. On June 14, 2018, Tesla provided KCC with a list of 32,906 records identified as
11 the Class Member List, i.e. all U.S. residents who purchased Enhanced Autopilot in connection
12 with their purchase or lease of a Tesla Hardware 2 Model S or Model X vehicle delivered to them
13 on or before September 30, 2017. (A “Tesla Hardware 2 Model S or Model X vehicle” is a Tesla
14 Model S or X vehicle equipped with Hardware 2 that Tesla commenced shipping in October
15 2016.) KCC entered the Class Member List information into its proprietary database and prepared
16 a data file for the initial mailing. Prior to mailing, KCC caused the addresses in the Class
17 Member List to be updated using the National Change of Address database (“NCOA”)
18 maintained by the U.S. Postal Service. A total of 1,229 addresses were found and updated.

19 4. KCC identified 496 duplicative records. Of these, 136 records were identified by
20 Defendant as persons that purchased multiple vehicles during the class period and were therefore
21 not duplicative; however, these records were consolidated for purposes of the mailing. KCC
22 removed the 360 duplicative records from the Class Member List, resulting in 32,546 records
23 remaining on the Class Member List.

24 MAILING OF THE NOTICE

25 5. On July 23, 2018, KCC mailed the Summary Notice (“Notice”) to each of the
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28 ¹ All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Stipulation of Settlement, dated June 8, 2018 (the “Settlement Agreement”) and/or the Preliminary Approval Order.

32,410 unique persons (owners/lessees of 32,546 vehicles) on the Class Member List.

6. Since mailing the Notice, KCC has received a total of 401 Notices returned by the U.S. Postal Service with forwarding addresses. KCC caused the Class Member list to be updated with the new addresses and Notices to be promptly re-mailed to the updated addresses, with the exception of three such Notices that were returned after the deadline for exclusions or objections.

7. Since mailing the Notice, KCC has received a total of 1,020 Notices returned by the U.S. Postal Service without forwarding address information. KCC conducted address searches using credit and other public source databases to attempt to locate new addresses for these Class Members. These searches have resulted in 524 updated addresses. KCC promptly re-mailed Notices to the updated addresses. Notice therefore reached 98.6% of the Class Members.

REPORT ON EXCLUSION REQUESTS RECEIVED

8. The Notice informed Class Members that requests for exclusion from the Class must be postmarked no later than September 6, 2018. KCC has received 94 requests for exclusion (.29%).

OBJECTIONS TO THE SETTLEMENT

9. The deadline for Class Members to object to the settlement was a postmarked deadline of September 6, 2018. Although KCC received no objections to the settlement, two objections were filed with the Court (.006%).

SETTLEMENT FUND

10. On December 18, 2018, Defendant made payment to the Qualified Settlement Fund ("QSF") in the amount of \$5,415,280.00.

11. After deducting \$975,999.95 representing Class Counsels' attorneys' fees and costs (18.02% of the gross settlement sum), in addition to \$24,000.00 representing the named plaintiffs' awards, KCC issued checks to 32,236 Class Members for the First Distribution totaling \$4,400,233.32.

12. As of November 8, 2019, 4,848 Class Members did not cash their checks in the First Distribution, resulting in a total of \$571,923.99 unclaimed funds remaining in the QSF. This

1 amount is inclusive of the records where Defendant and KCC were unable to obtain correct postal
2 addresses for 207 Class Members totaling \$28,381.14.

3 13. By Court Order dated December 16, 2019, KCC was instructed to include the
4 \$28,381.14 amount (specified above) in the pro rata Second Distribution to be made to the Class
5 Members pursuant to Section IX.C.3.a of the Settlement Agreement.

6 14. At the time of preparation for the Second Distribution, KCC was able to obtain
7 correct postal addresses for an additional 44 Class Members and subsequently issued checks
8 totaling \$6,557.32 representing payments from the First Distribution. This resulted in a total of
9 \$565,366.67 remaining in the Net Settlement Fund.

10 15. For the Second Distribution, KCC issued 27,432 checks totaling \$565,099.20 to
11 the Class Members that cashed their checks from the First Distribution. Of these, 23,283 checks
12 were cashed totaling \$479,629.80.

13 16. The combined average recovery per class member from the First and Second
14 Distribution is \$154.02. In addition, the combined median recovery per class member is \$117.03.

15 17. The largest payment amount paid to class members was \$304.82. The smallest
16 payment amount paid to class members was \$20.30.

17 18. As of October 19, 2020, a total of \$88,112.12 in unclaimed funds remained in the
18 QSF representing 4,149 class members that have not cashed their checks from the Second
19 Distribution.

20 19. Pursuant to the Court Order dated October 23, 2020, KCC wired payments on
21 October 30, 2020, in equal amounts of \$44,056.06, payable to the Ohio State University Center
22 for Automotive Research and Texas A&M Transportation Institute, Center for Transportation
23 Safety as cy pres award distributions.

24 20. KCC confirms that as of the date of this declaration, there are no funds remaining
25 in the QSF and the account is now closed.

26 21. As of the date of this declaration, KCC has billed costs of administration in the
27 amount of \$116,805.39. KCC is paid separate from the QSF by Defendants.
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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3 Executed on November 20, 2020 at San Rafael, CA.

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7 LANA LUCCHESI
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Attachment A

Sheikh v. Tesla Class Action Settlement Distribution and Statistics Chart

<u>Requested Information</u> ¹	<u>Response</u>
Total settlement fund	\$5,415,280.00
Total number of class members	32,410
Total number of class members to whom notice was sent and not returned as undeliverable	31,911
Number and percentage of claim forms submitted	n/a
Number and percentage of optouts	94 (0.29%)
Number and percentage of objections	2 (0.006%)
Average recovery per claimant	\$154.02
Median recovery per claimant	\$117.03
Largest amount paid to class members	\$304.82
Smallest amount paid to class Members	\$20.30
Methods of notice to class members	U.S. Mail
Methods of payment to class members	Direct issued checks
Number of checks not cashed	8,976
Value of checks not cashed	\$88,112.12
Amounts distributed to each cy pres recipient	\$44,056.06 each to two cy pres recipients
Administrative costs	\$116,805.39
Attorneys' fees and costs	\$975,999.95
Attorneys' fees and costs in terms of percentage of the settlement fund	18.02%
Multiplier	2.36

¹ United States District Court, Northern District of California's *Procedural Guidance for Class Action Settlements*, Post-Distribution Accounting ¶ 1(a)